

# Memorandum

Date : May 15, 1998

To : Jananne Sharpless, Presiding Member  
Robert A. Laurie, Associate Member

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File : MEMO008.WPD

From : California Energy Commission - Richard K. Buell  
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Subject : High Desert Power Project (97-AFC-1) Status Report Number Five

The Committee's May 4, 1998 **Notice of Committee Conference and Order** directed staff and other parties by May 15 to: 1) advise the Committee whether a permit from the California Department of Toxic Substances Control (DTSC) is required, and if required, indicate the type required, the time necessary to obtain it, and the proposed methods for incorporating this permit into the licencing process; and 2) provide a proposed schedule, which suggests due dates for outstanding information, for publication of a complete preliminary staff assessment (PSA), and for publication of the Final Staff Assessment (FSA). The order also directed staff to hold a public workshop on the transmission line interconnection study as soon as possible after the California Independent System Operator (Cal-ISO) has completed its review the study. The purpose of this memorandum is to provide you our response to this order.

## **DEPARTMENT OF TOXIC SUBSTANCES CONTROL PERMIT REQUIREMENTS**

The Committee has requested that staff, the applicant and other parties determine whether a hazardous waste treatment permit from the California Department of Toxic Substances Control (DTSC) is required for the crystallizer, which will be used as part of the wastewater treatment system for the project. There is a possibility that the pretreated wastewater could be classified as hazardous and, therefore, mandate a hazardous waste treatment permit for the crystallizer. Ms. Janine Kelly, the applicant's consultant, stated that according to federal law, even if the wastewater is classified as hazardous, the crystallizer would be considered part of a continuous process and would not need a federal permit. Our efforts to contact the U.S. Environmental Protection Agency (EPA) to confirm this conclusion have been unsuccessful to date.

Under California law, the crystallizer would be viewed as a separate part of the wastewater treatment process and may be required to obtain a hazardous waste treatment permit. Staff and the applicant have discussed the specifics of the proposed wastewater treatment process with Mr. Noel Laverty and Mr. Norm Riley of DTSC. Both DTSC representatives stated that although a hazardous waste treatment facility permit could be required, a recycling exemption may be available for the project (Health and Safety Code, section 25143.2).

On May 13, 1998, Ms. Irena Edwards, representing DTSC, indicated that she had reviewed the California Unions for Reliable Energy's (CURE) April 21, 1998 letter regarding the wastewater treatment issue and the High Desert Power Project Application for Certification. Based on that review, her preliminary determination was that the project may be eligible for the recycling exemption according to Health and Safety Code, section 25143.2.

Ms. Edwards stated that High Desert Power Project (HDPP) would have to officially apply for the recycling exemption through the local Certified Unified Program Agency (CUPA) which, in this case, is the Victorville Fire Department.<sup>1</sup> Under the state permitting program, there are three permitting tiers for on-site hazardous waste treatment. They are Permit by Rules, Conditional Authorization and Conditional Exemption. The CUPAs handle the Conditional Authorization and the Conditional Exemption tiers. The project may fall under the Conditional Exemption tier. If the wastewater is considered not hazardous or considered recycled, the tiers do not apply, and therefore the project would be exempted.

We reiterate that EPA may have additional comments on the permit required for the crystallizer, which we are attempting to obtain. DTSC has reviewed the documentation that CURE provided to staff, and the information in the AFC on the wastewater treatment system. Its determination that the project is eligible for a recycling exemption is preliminary. We advise the applicant to submit documentation on the proposed project wastewater treatment system to the CUPA and DTSC Consultative Services by May 29, 1998, to obtain an official ruling on the permit requirements. We recommend that the Committee require the applicant to provide documentation of the CUPA and DTSC findings by June 15, 1998. See the discussion below regarding scheduling.

## **PROJECT SCHEDULE**

At this time, the second natural gas pipeline presents a significant problem for staff in developing a reasonable schedule for the project. As we noted in our fourth status report, "staff recognizes that [U.S. Fish and Wildlife Services] USFWS's concerns **could** eliminate the second natural gas pipeline along Helendale Road from further consideration. Staff believes that the applicant needs to critically examine alternative routes for the second natural gas pipeline (possibly using the Desert Plan's designated utility corridors). Staff recommends that the applicant meet and confer with [U.S. Bureau of Land Management] BLM and USFWS, **as soon as possible**, and enter into serious discussion about the actions the applicant needs to take to satisfy these two federal agencies with respect to the High Desert Power Project and second natural gas pipeline." We are also looking into the possibility of developing an memorandum of

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<sup>1</sup> In accordance with Senate Bill 1082 of 1993 (Health and Safety Code Chapter 6.11 the California Environmental Protection Agency (Cal/EPA) established a unified hazardous waste and hazardous materials management regulatory program. A CUPA consolidates, coordinates and makes consistent the administrative requirements, permits inspection activities, enforcement activities, and hazardous waste and hazardous materials fees.

understanding between the Energy Commission and BLM to assist coordination, review and analysis for the project.

Staff learned on May 14, 1998 that the applicant intends to explore staff's recommendation to examine alternative routes and consult with BLM and USFWS. On May 15 1998, Mr. Richard L. Wolfinger estimated that the information staff identified as necessary, in its fourth status report, for the second natural gas pipeline could be provided by June 15, 1998. Therefore, we are proposing June 15, 1998 as a performance date for information on the second natural gas pipeline.

We believe that the submittal of information necessary for the issuing a 10(a)(1)(B) permit by USFWS or a "Section 7" consultation by BLM are critical events.<sup>2</sup> We believe the Committee should have some indication that these federal agencies will approve the proposal prior to the Energy Commission's certification. The schedule described below assumes a performance date of June 15, 1998.<sup>3</sup> We are not certain that this date can be met or that it would allow the federal agencies to act on their respective permit requirements prior to the Energy Commission certifying the project.

Based on our discussions with the Mojave Desert Air Quality Management District (District) staff, we expect to receive the Preliminary Final Determination of Compliance (PDOC) on Monday May 18, 1998. The schedules below show the Final Determination of Compliance (FDOC) being filed on July 17, 1998; approximately 60 days after the PDOC. Based on our discussions with the EPA, California Air Resources Board (ARB), CURE, and Mr. Mark Abramowitz (representing Community Environmental Services and Goal Line Environmental Technologies [manufacturers of the SCONox control technology]), we believe that air quality issues on the High Desert Project are likely to be controversial. We believe that sixty days between the PDOC and FDOC will be the minimum time required to attempt to resolve issues prior to the evidentiary hearings. We strongly encourage parties to make timely comments and suggestions on the PDOC to expedite this process.

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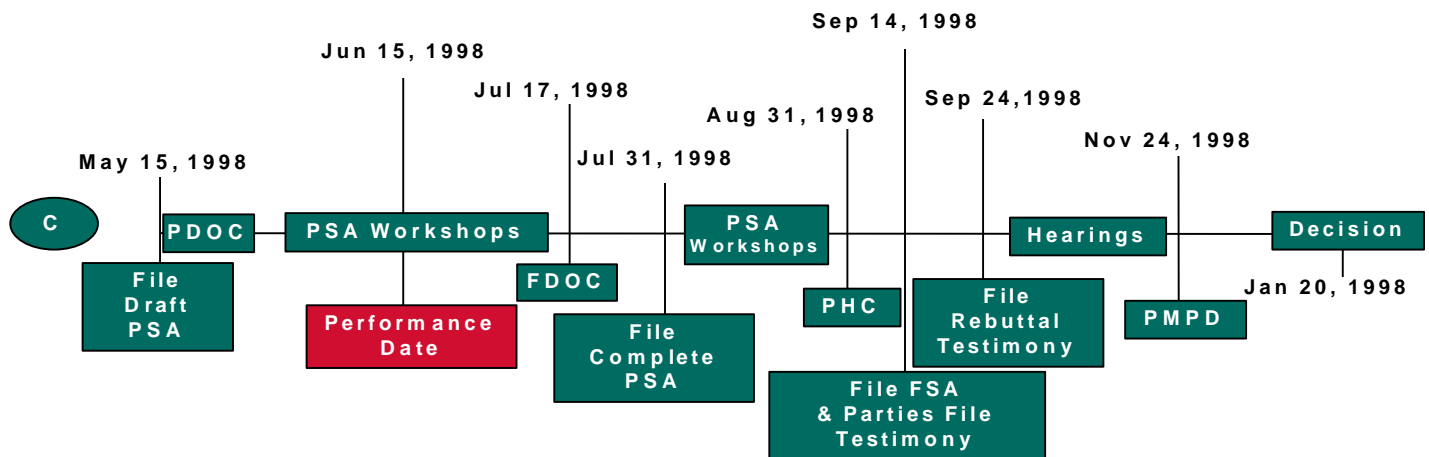
<sup>2</sup> At the April 30, 1998 workshop, we asked the applicant whether it had pursued filing for an incidental take permit from the U.S. Fish and Wildlife Service (USFWS) for the power plant and linear facilities. This permit is referred to as a 10(a)(1)(B) permit and is necessary where federally listed species may be impacted by project development. At that time, the applicant indicated that it had not. At the April 30, 1998 workshop, the applicant suggested that the BLM will include the whole project in its Section 7 consultation rather than a "Section 10(a)(1)(B)" (incidental take) process required for the original project proposal, which can be more time consuming. However, whether or not BLM wants to examine the whole project for the Section 7 consultation, the USFWS has the discretion to determine which process is most appropriate. As it stands now, the USFWS will be reviewing the HDPP project as described in the AFC and consider issuing a take permit under Section 10(a)(1)(B) of the Endangered Species Act. This process can be very time consuming because an acceptable Habitat Conservation Plan (HCP) has to be prepared by HDPP. This along with an Environmental Analysis (EA) must be completed before a proposed biological opinion can be submitted to the USFWS Regional Office in Portland, Oregon for approval. At best, staff believes the 10(a)(1)(B) review and approval process could take 150 days, once the HCP and EA are finalized.

<sup>3</sup> Based on the date the applicant indicated it would provide the emission offset letters of intention in its May 6, 1998 letter to Mr. Stanley Valkosky.

Based on our discussions with Steve Mavis, representing the California Independent System Operator (Cal-ISO), we expect Edison to provide the Interconnection Study on Friday May 15, 1998. We also expect the Cal-ISO to complete its review by May 29, 1998. Based on this new information, staff proposes to conduct a workshop on the interconnection study and the Cal-ISO's findings and recommendations during the second week of June (most likely June 9, 1998).

The Committee's May 4, 1998 order directed parties to include firm dates for submittal of information necessary to complete analyses (e.g., performance dates), publication dates for a "Complete PSA" and FSA (i.e., staff's Option C schedule described in its third status report). The schedule shown below shows a June 15, 1998 performance date, which is likely the earliest the information can be provided. If the information could not be provided by June 15, 1998, all events past the performance date should slip, day-for-day, until the information is provided.

**Figure 1**  
**Staff Proposed Option C Schedule**



The above Figure 1 schedule is shown in a tabular format, which is attached as Table 1. We have allowed 45 days from receipt of performance data until issuing a "Complete PSA", and 45 days from issuing a "Complete PSA" until issuing a FSA. Our proposed schedule also shows that parties will be required to file their testimony on the same date staff issues its FSA, which is the normal practice in siting cases. However, because we expect there to be controversial issues on the High Desert Power Project, we are proposing that parties be allowed to file written rebuttal testimony 10 days after filing the FSA and other testimony. This proposal extends, by approximately one week, the traditional time between filing of the FSA and holding hearings, but we believe in

this case the added time is appropriate. We note that the overall schedule we provided will likely extend beyond the mandated 12 months.

## **WORKSHOPS**

After consulting with the Cal-ISO, applicant and other parties, staff believes that the most appropriate time for a workshop on the topic of transmission system engineering would be the second week of June (most likely June 9, 1998), in Sacramento. Staff also plans to discuss other engineering topics during this workshop, including: noise, facility design, efficiency, reliability, and demand conformance.

As suggested by the applicant, staff agrees to conduct frequent workshops with the applicant and other parties to discuss the details of the High Desert Power Project, subject to availability of staff and other parties. However, as noted in the Committee's May 4, 1998 Order, we believe it is premature to schedule biweekly workshops, pending identification of specific workshop topics or objectives. Staff will work with the applicant and other parties in determining when and what topics should be addressed at subsequent workshops. Table 1 shows some tentative dates for future workshops. Based on the new information provided by the applicant regarding alternative routes for the second natural gas pipeline, and the possible need to discuss other scheduling and informational requirements for the project, staff requests that the Committee continue the May 20, 1998 Committee Conference in a workshop format to discuss these issues. If the Committee agrees, the continuation will be held as follows:

**May 21, 1998**  
**9:00 a.m. to 4:00 p.m.**  
**Office Building 8 - Room 217**  
**714 P Street, Sacramento, California**

RKB:rkb

cc:	Proof of Service	Ray Menebroker, ARB
	Chuck Fryxell, APCO Mojave Desert	Robert G. Zeller, Mojave Desert AQMD
	Matt Haber, U.S. EPA	Dan Gallagher, VVWRD
	Charlie Kraus, VVWD	Norman Caouette, MWA
	Mark Zeiring, CPUC	Manuel Alvarez, Edison
	Rebecca Jones, CDFG	

**Table 1**  
**Staff Proposed Option C Schedule**

DATE	DAYS LEFT	EVENT
08-May-98	257	Fourth Status Report
12-May-98	253	Applicant files turbine data
15-May-98	250	Edison completes transmission interconnection study, and applicant submits study including stability analysis
15-May-98	250	Fifth Status Report, and response to May 4, 1998 Order
15-May-98	250	File Draft Preliminary Staff Assessment
18-May-98	247	Mojave Desert AQMD files Preliminary Determination of Compliance
20-May-98	245	<b>Committee Conference</b>
21-May-98	244	<b>Staff requested Continuation of Conference in Sacramento</b>
27-May-98	238	<b>PSA Workshop in Victorville</b>
28-May-98	237	<b>PSA Workshop in Victorville</b>
29-May-98	236	Applicant Files Information Waste Information With DTSC
29-May-98	236	Cal-ISO completes review of Edison's transmission interconnection study
09-Jun-98	225	<b>Transmission Line Workshop in Sacramento</b>
10-Jun-98	224	<b>Tentative Date for Air Quality Workshop on Preliminary DOC, in Victorville</b>
15-Jun-98	219	Applicant files water resources information
15-Jun-98	219	Applicant files engineering and environmental information for second natural gas pipeline
15-Jun-98	219	Applicant files information for 10(a)(1)(B) permit with USFWS and/or a "Section 7" consultation with BLM
15-Jun-98	219	Applicant files DTSC Permit or Exemption for Crystallizer Waste
15-Jun-98	219	Applicant files emission offset Letters of Intent
17-Jul-98	187	Mojave Desert AQMD files Final Determination of Compliance
31-Jul-98	173	File Complete PSA
10-Aug-98	163	<b>Start Workshops on Complete PSA</b>
17-Aug-98	156	File Prehearing Conference statements
21-Aug-98	152	<b>Finish Workshops on Complete PSA</b>
31-Aug-98	142	<b>Prehearing Conference In Victorville</b>
14-Sep-98	128	File FSA
14-Sep-98	128	Parties file Testimony
24-Sep-98	118	Parties file Rebuttal Testimony
05-Oct-98	107	<b>Start Hearings</b>
19-Oct-98	93	<b>Conclude Hearings</b>
24-Nov-98	57	Committee Issues Draft Presiding Members Proposed Decision
24-Dec-98	27	End of PMPD comment period for agencies and others
06-Jan-99	14	Committee Issues Revised PMPD
20-Jan-99	0	<b>Energy Commission Business Meeting to Adopt Revised PMPD</b>